IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 32 OF 2006

Salikram s/o Chetnarayan Sharma .. Petitioner

versus

The State of Maharashtra & ors .. Respondents

...

Mr.P.T. Daware for the petitioner.

Mr.C.R. Sonawane AGP for the State.

CORAM : D.G. KARNIK, J

DATED : 21st September 2006

P.C.:

1. Heard learned counsel for the parties.

2. This Contempt Petition has been filed alleging breach of the order dated 23rd June 2005 by Division Bench of this Court in Writ Petition no.430 of 2005.

3. The petitioner herein had filed a Writ

petition against the respondents challenging the recovery which was being made from him. By the order dated 23rd June 2005, the Division Bench allowed the Writ Petition and quashed the order of recovery. The Court further ordered that if any amount of retiral benefit was withheld on account of the impugned decision of the recovery of the amount, the same shall be released to the petitioner forthwith. According to the petitioner, despite this direction, the entire amount of retiral benefit was not paid to him. Therefore, he has filed this petition alleging breach of the order. The respondents have denied breech of the order and have filed two affidavits dated 17th July 2006 and 19th September 2006, both sworn in by Dr.Deorao S. Dakhure, Joint Director of Health Services. Respondents have also filed affidavit of Dr.Salil V. Patil, Dr.Vijaysinh H. Mohite and Dr. Viyaj Satbir Singh, all dated 19th September 2006.

4. Learned AGP appearing for the respondents submitted that the amount which was withheld from the retirement benefit has since been paid. Learned counsel for the petitioner admits the receipt of the amount. The only issue is whether the respondents committed any breach deliberately by not making the

payment forthwith.

5. Learned AGP submits that the decision dated 23rd June 2005 of this Court in Writ Petition no.430 of 2005 was challenged by the respondent by filing a Special Leave Petition in the Supreme Court, which was dismissed. After the dismissal of the Special Leave Petition, some administrative work and action was required before releasing the payment and as soon as administrative formalities were completed, the payment has been made. The explanation offered by the respondents is reasonable. Learned AGP further states that in order to compensate the petitioner for the delay in payment respondents would pay to the petitioner interest from 23rd June 2005 (i.e. date of the order) to 11th July 2005 when the payment was made. The statement is recorded and accepted.

6. In my view as the delay has been explained and since the respondents have also offered to pay interest to the petitioner for the period of the delay, it cannot be said that the respondents have committed wilful breach of the order passed by this Court. For these reasons, Contempt Petition is disposed of.

(D.G. KARNIK, J)